

BOARD OF APPEALS CASE NO. 5259

*

BEFORE THE

APPLICANTS: Edward Steere & Debra Rosenberg

*

ZONING HEARING EXAMINER

**REQUEST: Variance to construct an addition
within the required side yard setback;
1600 Sommerville Road, Bel Air**

*

OF HARFORD COUNTY

*

Hearing Advertised

*

Aegis: 5/8/02 & 5/15/02

HEARING DATE: June 24, 2002

*

Record: 5/10/02 & 5/17/02

* * * * *

ZONING HEARING EXAMINER'S DECISION

The Applicants, Edward Steere and Deborah Rosenberg, are requesting a variance, pursuant to Section 267-34C, Table II, of the Harford County Code, to construct an addition within the required twenty (20) foot side yard setback in an Agricultural District.

The subject parcel is located at 1600 Somerville Road, Bel Air, Maryland 21015 in the Third Election District, and is more particularly identified on Tax Map 56, Grid 3B, Parcel 438. The parcel contains approximately 0.50 acres more or less.

The Applicant, Edward Steere, appeared and testified that he and the Co-Applicant, Deborah Rosenberg, are the owners of the subject property. He stated that he had read the Department of Planning and Zoning's Staff Report, and had no changes or corrections to the information contained therein.

Mr. Steere described his property as a rectangular shaped lot, improved by a two-story single family home with a fenced rear yard. The property is also improved by two driveways, one of which is paved and located to the right side of the lot, and the second of which is gravel and located to the left side of the lot. There is a storage building to the right rear of the dwelling. He described the home as a very symmetrical Cape Cod, with the living room and family room located on one side of the dwelling, and the kitchen and dining room located on the other side. The family room is on the south side of the property, and the existing outside wall is only 28 feet from the property line.

Case No. 5259 – Edward Steere & Debra Rosenberg

The Applicant stated that he proposes to extend the existing family room by constructing an 11 foot by 18 foot addition to that room. This would cause an encroachment of approximately 4 feet into the required side yard setback. The proposed addition would be 17 feet from the property line at its closest point. Mr. Steere testified that, due to the placement of the existing home on the property, the location of the existing well, septic system and driveway, and the unique architecture of the home, the proposed location is the only practical place to locate an addition on the property.

Finally, the witness testified that most of the other homes in the neighborhood have additions, and the proposed addition will be similar in size and appearance to those found on other homes within the neighborhood. The proposed addition will also be compatible with the existing dwelling. It will be one story high, and will look like a sunroom from the outside.

Mr. Steere stated that the granting of the requested variance will not have any adverse impact on neighboring properties. According to the witness, his home is one of the smallest on the street, and the addition will likely have a positive impact on the value of surrounding property. There is a large cypress tree, with a 20 foot base, located between the side of the home where the proposed addition would be constructed, and the adjoining property. This tree blocks the view between the houses.

The Department of Planning and Zoning recommended approval of the subject request in its May 28, 2002 Staff Report, stating:

“The Department finds that the subject property is unique. The proposed location for the addition is the only practical alternative given the location of the well, septic system, and driveways. There is mature vegetation between the adjacent property and the proposed addition. The variance, if approved, should not have an adverse impact on the intent of the Code or the adjacent properties.”

No witnesses appeared in opposition to the requested variance.

CONCLUSION:

The Applicants, Edward Steere and Deborah Rosenberg, are requesting a variance, pursuant to Section 267-34C, Table II, of the Harford County Code, to construct an addition within the required twenty (20) foot side yard setback (16.6 foot proposed) in an Agricultural District.

Section 267-34C of the Harford County Code, Table II:

- C. Design requirements for specific usage in an AG agricultural district provides for a minimum 20 foot side yard width.

Section 267-11 of The Harford County Code permits the granting of variances, stating that:

“Variances from the provisions or requirements of this Code may be granted if the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest.”

The Maryland Court of Special Appeals set forth a two-prong test for determining whether a variance should be granted in the case of Cromwell v. Ward, 102 Md. App. 691, (1995). This two prong test can be summarized as follows. First, there must be a determination as to whether there is anything unique about the property for which the variance is being requested. A lot is unique only if there is a finding that a peculiar characteristic or unusual circumstance, relating only to the subject property, causes the zoning ordinance to impact more severely on that property than on surrounding properties. Cromwell, supra, at 721. If the subject property is unique, the trier of fact may proceed to the second prong of the test. The second prong involves a determination of whether literal enforcement of the zoning ordinance with regard to the unique property would result in practical difficulty or unreasonable hardship to the property owner.

Case No. 5259 – Edward Steere & Debra Rosenberg

The Hearing Examiner finds that the subject property is unique. The symmetrical architecture of the existing home, along with its placement on the lot, and the location of the existing well, septic system, and driveways, makes the proposed location the only practical place in which to construct an addition.

The Hearing Examiner finds that literal enforcement of the Code would result in practical difficulty for the Applicants. Most of the other homes in the neighborhood have similar additions. If the requested variance is not granted, the Applicants will be unable to expand their existing family room, and will therefore be denied property rights commonly enjoyed by other homeowners in their neighborhood.

Finally, the Hearing Examiner finds that the granting of the requested variance will not be substantially detrimental to adjacent properties, or materially impair the purpose of this Code or the public interest. The proposed construction is architecturally compatible with the existing structure and with other properties in their neighborhood. Because the home is one of the smallest on the street, the construction would likely increase the value of surrounding properties. In addition, there is a large tree present on the property between the area of the proposed addition and the adjoining parcel which will block the view of the addition from the neighboring property.

The Hearing Examiner recommends approval of the Applicant's request, subject to the following conditions:

1. That the Applicants obtain all necessary permits and inspections for the proposed construction.
2. That the Applicants not encroach further into the setback than the distance requested herein.

Date JULY 23, 2002

Rebecca A. Bryant
Zoning Hearing Examiner